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THE RIGHT TO ACCESS TO THE INTERNET

Globalization processes in the modern information space, their impact not only on socio-economic and socio-political relations, but also on the everyday life of an individual, lead to new approaches to the legal regulation of the right to access the Internet (information and communication network Internet), as the fastest and convenient means of receiving and sharing information. The Internet, as the most important resource for information exchange, is becoming more and more important in the life of both individuals, society and the state. At this stage of human development, the primary task for the state and an indicator of its development is the proper access of the population, in particular, of Ukraine, to the Internet.

The problematic issues of ensuring a person's right to information and access to the Internet information and communication network were studied by the following scientists: A. Hryshchenko, M. Demkova, L. Zadorozhnyia, V. Kolisnyk, B. Kormych, T. Kostecka, O. Loginov, A. Marushchak, O. Martsenyuk, K. Stepanenko, V. Seryogin, T. Slinko, Yu. Todyka and others.

The purpose of this publication is to define the main directions of state legal policy in the field of personal access to the Internet

Article 34 of the Constitution of Ukraine established a person's right to information: "Everyone has the right to freely collect, store, use and disseminate information orally, in writing or in another way - at their choice" [1]. A person's access to the Internet is an important means for their to realize their rights and freedoms in today's globalized world, but such a right is not regulated in Ukrainian legislation. The right of a person to access the Internet ensures their participation in democratic processes, in particular, in the field of electronic governance, access to public information. In general, it is impossible to deprive an individual of access to the Internet, except by court order. It is usually possible to limit a person's access to the Internet in connection with the violation of the last contractual relationship, in particular, the provision of Internet services can be terminated or suspended under the terms of the relevant contract, but such measures can be applied to the counterparty only after all other means have been exhausted. In particular, it is allowed to disconnect the Internet user from the Internet in case of non-payment for the services provided to them, but according to European practice, this should be an exception.

A separate problem is ensuring the right to access the Internet for persons under the age of 18. In general, children may be subject to restrictions on Internet access within the framework of parental control over the use of the network. Such a restriction has its conditions. Yes, it is possible to limit

the right of a minor to the Internet depending on the age and maturity of the child, as well as the content of the corresponding site.

The international community is unanimous in its position on the importance of access to the Internet. The United Nations has recognized that the right to access the Internet is one of the inalienable human rights. According to the 2010 UN resolution, the dissemination of information on the network should be as free as possible (restrictions apply only to those situations when it may lead to the violation of someone's rights), universal access to the network and cooperation with resources and organizations that promote expression should be ensured public opinion via the Internet.

A person may not be discriminated against on the basis of skin color, gender, race, language, or religion when dealing with state authorities or local self-government bodies, Internet providers or Internet content providers, as well as with other users and/or their groups or religion, political or other beliefs, nationality or social origin, belonging to national minorities, property, origin or any other status, in particular, ethnicity, age or sexual orientation [2].

However, it is necessary to take into account that the use of the Internet can have certain negative consequences, in particular, in the conduct of criminal activities, which can be directed both against individuals and against the state as a whole.

An urgent problem in the modern world, especially in countries with an authoritarian regime, is the restriction of access to the Internet not only for individuals, but also for the entire population. Limiting access to the network for the entire population of such a country, even for the purpose of ensuring national security, cannot be justified under any circumstances. Restricted information is subject to restriction, not access to the Internet. Therefore, state restrictions on Internet access are a consequence of legal uncertainty. In fact, the state does not guarantee or protect a person's right to access the Internet.

K. Stepanenko singles out the following areas of legal relations that arise when using the Internet:

- 1) legal regulation of technical and organizational issues of the functioning of the Internet and its elements, information and communication technologies;
- 2) legal regulation of issues that go beyond the scope of the Internet, in particular, intellectual property, electronic commerce, etc., but are related to it;
- 3) ensuring legality in relations regarding the management and use of the Internet, protection of human rights in this area, including protection of intellectual rights and inviolability of private life;
- 4) prevention and counteraction of crime and illegal behavior on the Internet, in particular, with cybercrime, extremism, child and other pornography, etc.);

5) implementation of support for socially significant initiatives in the field of the Internet, in particular, preservation of the cultural heritage of humanity and individual peoples, multilingualism [2].

The Internet is simultaneously both a technical and a social system. And therefore legal regulation of the network should be carried out taking into account the interests of all interested participants of such relations. State policy should avoid monopolizing network technical resources, content censorship, and access to databases. The goal of legal regulation of the Internet should be to achieve a reasonable balance between the freedom and security of all its participants [3].

Conclusions and prospects for further scientific research.

In Ukraine, the issue of recognizing and regulating the right to access the Internet as a basic human right continues to be debatable today. It can be stated that there is no single position on the regulation of the right to access the Internet at the constitutional or legislative levels. A necessary step should be to amend the Constitution of Ukraine by enshrining the right to access the Internet as an inalienable human right. Corresponding changes must also be made to the Civil Code of Ukraine, the Law of Ukraine "On Information", etc.

References:

1. The Constitution of Ukraine. (1996). Constitution of Ukraine, June 28. Official site of the Verkhovna Rada of Ukraine <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text> (accessed January 23, 2023)
2. Stepanenko, K. (2013). State regulation of legal relations in the Internet information and communication network. «Legal Informatics», № 3(39). <http://ippi.org.ua/sites/default/files/13skvimi.pdf> (accessed January 23, 2023).
3. Gutsu, S. (2018). Legal regulation of the Internet: international and domestic experience Bulletin of NTUU "KPI" Political Science. Sociology. Right <http://visnyk-ppsp.kpi.ua/article/view/152935/152055>. (accessed January 24, 2023).